IN THE HIGH COURT OF JUDICATURE AT BOMBAY
SPECIAL JURISDICTION ORIGINAL SIDE

CHARTERED ACCOUNTANT REFERENCE NO. 6 OF 2000

In the matter of the Council of the
Institute of Chartered Accountants
of India, Indraprastha Marg,
New Delhi .. Petitioner

vs.

Shri D.S. Doshi, FCA,
M/s. Dipak Doshi & Associates,
Chartered Accountants,
A-11, Dhiraj Kunj,
Bajaj Road, Vile Parle (West),
Mumbai.. .. Respondent

Dr. Virendra Tulzapurkar, senior counsel with Ms. S.Srikrishna i/b. M/s.Kanga & Co. for the petitioner.

Mr. Ashok Patil for the Respondent.

Mr. D. N. Salvi for Union of India.

CORAM : R.M. LODHA &
J. P. DEVADHAR, JJ.

Date : 12th August 2004

ORAL JUDGMENT (PER R.M. LODHA,J.)

The respondent who is the member of the Institute of Chartered Accountants of India faced a complaint of professional misconduct. The

complaint was lodged by the Joint Director of Industries, Aurangabad alleging that the respondent had issued certificates for consumption of raw material and production in the years 1986/1987 in respect of the two units viz. M/s. Jaya Metal & Febricaters and M/s. Yesh Industries; the above units had not maintained records but in spite of that the respondent issued wrong certificates for huge amount of consumption of raw material.

2. The respondent denied the charge and the matter was referred to disciplinary committee. The complainant as well as the respondent were examined. The disciplinary committee also took on record the documents tendered by the parties. The disciplinary committee held that the respondent was guilty of professional misconduct within the meaning of clauses (7) and (8) of part I of Second Schedule of the Chartered Accountants Act, 1949 read with sections 21 and 22 of the Act and forwarded its report to the Council The Council accepted the finding of the disciplinary committee that the respondent engaged in professional misconduct and has recommended to this Court that the name of respondent be removed from the Register of Members for a period of one month.

3.

3. With the assistance of the learned senior counsel appearing for the Institute of Chartered Accountants of India and the learned counsel for the respondent, we perused the available material.

4. We are unable to accept the finding of the disciplinary committee and accepted by the Council that respondent was guilty of professional misconduct. The said finding is based on no legal evidence whatsoever. As a matter of fact, the complainant admitted before the disciplinary committee that prima facie the certificates issued by the respondent were correct and there was co-relation between the production value and consumption. However, the complainant stated that the certificates issued by the respondent were not correct because after about three years when the officials of the complainant's department visited the units for inspection, the units could not be produced the records. We are afraid, how the respondent can be faulted if after 3-4 years the concerned units failed to produce the relevant record before the field staff of the complainant. The respondent has categorically stated that he issued the concerned certificates after examining the purchase register, purchase bills and cash book. As a matter of fact, the complainant himself did not doubt the correctness of certificates.

The complainant was satisfied that that there was co-relation between the production value and consumption certified by the respondent. In our view, the charge of professional misconduct against the respondent is not at all established.

5. The reference is, accordingly, dismissed.

(R. M. LODHA, J.)

(J. P. DEVADHAR,J.)